

**PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2254
BY A PERSON IN STATE CUSTODY**

INSTRUCTIONS---READ CAREFULLY

1. **Use This Form** – If you are a person currently serving or will serve a sentence entered by a state court and you are asking for relief from the conviction or the sentence.

Do Not Use This Form – *IF YOU ARE CHALLENGING YOUR FEDERAL CONVICTION OR SENTENCE. INSTEAD, USE THE FORM ENTITLED “MOTION UNDER 28 U.S.C. § 2255 TO VACATE, SET ASIDE, OR CORRECT SENTENCE BY A PERSON IN FEDERAL CUSTODY.” IF 28 U.S.C. § 2255 IS INADEQUATE OR INEFFECTIVE TO TEST THE LEGALITY OF YOUR DETENTION, USE THE FORM ENTITLED “APPLICATION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241 BY A PERSON IN CUSTODY.”

*IF YOU ARE A PRETRIAL DETAINEE CHALLENGING YOUR PRE-CONVICTION CUSTODY, A FEDERAL PRISONER CHALLENGING THE EXECUTION OF YOUR SENTENCE OR AN ACTION TAKEN BY THE BUREAU OF PRISONS, OR A PERSON IN CUSTODY CHALLENGING AN IMMIGRATION-RELATED ORDER (OTHER THAN A REMOVAL ORDER), OR IN OTHER SITUATIONS WHERE RELIEF IS NOT AVAILABLE UNDER 28 U.S.C. § 2254 OR 28 U.S.C. § 2255, OR IF 28 U.S.C. § 2255 IS INADEQUATE OR INEFFECTIVE TO TEST THE LEGALITY OF YOUR DETENTION, USE THE FORM ENTITLED “APPLICATION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241 BY A PERSON IN CUSTODY.”
2. **Readable** – You may either type or neatly handwrite the information on the following form. It must be readable.
3. **Signed Under Penalty of Perjury** – To submit your petition, it must be signed. Your signature indicates that the petition is signed “under penalty of perjury.” This means that any false statement of a material fact presented in your petition may serve as a basis for prosecution and conviction for perjury. Your signature does **not** have to be witnessed by a notary public. The petition may also be signed by a person authorized to sign it for you, such as an attorney.
4. **Copies and Proper Court** – When the petition is fully completed, you must mail the **original** to: Clerk of Court, United States District Court for the Eastern District of Wisconsin, 517 East Wisconsin Avenue, Milwaukee, WI 53202.
5. **All Grounds** – You must include all grounds for relief in this petition and the facts supporting each ground for relief. If you fail to do so, you may be prevented from presenting additional grounds at a later date.
6. **Legal Citations and Arguments** – You must answer all applicable questions. However, you should not cite to legal authorities (i.e., case law or statutes) **on this form**. If you submit a supporting memorandum in addition to this form, it must not exceed fifteen (15) pages. Excess pages will not be considered.
7. **Fee** – You must either **(a)** pay the filing fee of \$5.00 or **(b)** if you do not have the \$5.00, you may request permission to proceed *in forma pauperis* (as a poor person), in which event you must complete and sign the petition and affidavit attached to this petition and have an authorized officer at the penal institution complete and sign the attached certificate. You must also have an authorized officer attach a printout of your prison trust account statement activity for the six months prior to the filing of your petition.
8. **Prisoner E-Filing Program** – Inmates confined at Dodge Correctional Institution, Green Bay Correctional Institution, Waupun Correctional Institution, Wisconsin Secure Program Facility, Columbia Correctional Institution, and Oshkosh Correctional Institution must submit all correspondence and case filings, including the habeas petition and any *in forma pauperis* petition, to institution staff for filing.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

KORRY L. ARDELL, Petitioner,
Full Name (under which you were convicted)

N/A
Prisoner Number

W4032 Hwy 32, Elkhart Lake, WI
Place of Confinement

Docket No. _____
(to be supplied by Clerk)

LANCE WIERSMA, Administrator, DOC, DoCC, Respondent.
Authorized Person Having Custody of Petitioner

PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2254
BY A PERSON IN STATE CUSTODY

Caution: THIS IS NOT THE FORM TO BE USED, IF YOU CLAIM THAT YOUR FEDERAL SENTENCE OR CONVICTION IS UNLAWFUL, OR IF YOU ARE A PRETRIAL DETAINEE CHALLENGING YOUR PRECONVICTION CUSTODY, A FEDERAL PRISONER CHALLENGING THE EXECUTION OF YOUR SENTENCE OR AN ACTION TAKEN BY THE BUREAU OF PRISONS, OR A PERSON IN CUSTODY CHALLENGING AN IMMIGRATION-RELATED ORDER.

I. SUBJECT OF THIS PETITION

A. Name and location of the state court that entered the judgment of conviction which you are challenging

Milwaukee County Circuit Court, Milwaukee, WI

B. Criminal docket or case number Milwaukee County Case No. 2014CF3516

C. Date of the judgment of conviction December 10, 2015

D. Date of sentencing December 10, 2015

E. Length of sentence Five Years (Two years initial confinement; three years extended supervision)

F. In this case, were you convicted on more than one count or of more than one crime?

Yes No

G. Identify all crimes of which you were convicted and sentenced in this case

One count of Stalking, Wis. Stat. §940.32(2)

H. What was your plea? (Check one)

Not guilty Guilty Insanity plea Nolo contendere (no contest)

If you entered a guilty plea to one count or charge and a not guilty plea to another count or charge, what did you plead guilty to and what did you plead not guilty to?

I. If you went to trial, what kind of trial did you have? (Check one)

Jury Judge only

SUBJECT OF THIS PETITION - continued

J. Did you testify at a pretrial hearing, trial, or a post-trial hearing?

Yes No

If yes, state the type(s) of hearing or proceeding

Trial

II. DIRECT STATE APPEAL OF CONVICTION

A. Did you appeal from the judgment of conviction?

Yes No

If yes, attach the decision(s) that resolved your appeal and answer the following questions:

1. Date of filing appeal Not. of Appeal filed 2/28/17 (after post-conviction proceedings in circuit court)

2. Grounds raised See attached.

3. Result Conviction affirmed; repeater enhancers stricken; Timely reconsideration motion denied

4. Date Order affirming: March 6, 2018; Reconsideration denied: March 22, 2018

B. Did you seek further review by the highest state court?

Yes No

If yes, attach the decision(s) that resolved your petition for review and answer the following questions:

1. Date of filing of petition for review April 23, 2018

2. Grounds raised See attached

3. Result Review denied

4. Date July 10, 2018

DIRECT STATE APPEAL OF CONVICTION - continued

C. Did you file a petition for certiorari in the United States Supreme Court?

Yes No

If yes, attach the decision(s) that resolved your petition for certiorari and answer the following questions:

1. Date of filing petition for certiorari N/A

2. Grounds raised N/A

3. Result N/A

4. Date N/A

III. STATE POST-CONVICTION RELIEF OTHER THAN DIRECT APPEAL

A. Other than the appeals listed above in Section II, have you previously filed any other state petitions, applications, or motions concerning this state judgment of conviction?

Yes No

If yes, attach the decision(s) that resolved your application for state post-conviction relief and answer the following questions:

1. Name of court N/A

2. Docket or case number N/A

3. Date of filing N/A

4. Type of petition, application, or motion filed N/A

5. Grounds raised N/A

6. Did you receive a hearing where evidence was given on your petition, application, or motion?

Yes No

7. Result N/A

STATE POST-CONVICTION RELIEF OTHER THAN DIRECT APPEAL- continued

8. Date N/A

9. Did you appeal to the highest state court having jurisdiction over the action taken on your first state petition, application, or motion?

Yes No

B. If you filed a second petition, application, or motion, attach the decision and answer the following questions:

1. Name of court N/A

2. Docket or case number N/A

3. Date of filing N/A

4. Type of petition, application, or motion filed N/A

5. Grounds raised N/A

6. Did you receive a hearing where evidence was given on your petition, application, or motion?

Yes No

7. Result N/A

8. Date N/A

9. Did you appeal to the highest state court having jurisdiction over the action taken on your second state petition, application, or motion?

Yes No

N/A

C. If you filed a third petition, application, or motion, attach the decision and answer the following questions:

1. Name of court N/A

2. Docket or case number N/A

3. Date of filing N/A

STATE POST-CONVICTION RELIEF OTHER THAN DIRECT APPEAL- continued

4. Type of petition, application or motion filed N/A

5. Grounds raised N/A

6. Did you receive a hearing where evidence was given on your petition, application, or motion?
 Yes No

7. Result N/A

8. Date N/A

9. Did you appeal to the highest state court having jurisdiction over the action taken on your third state petition, application, or motion?
 Yes No

IV. GROUND FOR RELIEF

For this petition, state every ground supporting your claim that you are being held in violation of the Constitution, laws, or treaties of the United States. If you fail to set forth all the grounds in this petition, you may be barred from presenting additional grounds at a later date.

Attach additional pages if you have more than four grounds. State the facts supporting each ground.

CAUTION: To proceed in the federal court, you must ordinarily first exhaust (use up) your available state-court remedies on each ground on which you request action by the federal court.

Ground One See attached

Supporting FACTS (Briefly summarize the facts without citing cases or law.)

See attached

GROUND FOR RELIEF - continued

If you did not exhaust your state remedies on Ground One, explain why.

N/A

Ground Two See attached

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Supporting FACTS (Briefly summarize the facts without citing cases or law.)

See attached

GROUNDS FOR RELIEF - continued

If you did not exhaust your state remedies on Ground Two, explain why.

N/A

Ground Three See attached

Supporting FACTS (Briefly summarize the facts without citing cases or law.)

See attached

If you did not exhaust your state remedies on Ground Three, explain why.

N/A

GROUND FOR RELIEF - continued

Ground Four See Attached

Supporting FACTS (Briefly summarize the facts without citing cases or law.)

See attached

If you did not exhaust your state remedies on Ground Four, explain why.

N/A

V. PRIOR FEDERAL CHALLENGES

A. Have you previously filed any type of petition, application, or motion in a federal court regarding the state conviction that you are challenging in this petition?

Yes No

If yes, attach the decision(s) that resolved your prior federal court challenge and answer the following questions:

1. Name of court N/A

PRIOR FEDERAL CHALLENGES - continued

2. Docket or case number N/A

3. Date of filing N/A

4. Type of petition, application, or motion filed N/A

5. Grounds raised N/A

6. Did you receive a hearing where evidence was given on your petition, application, or motion?

Yes No

7. Result N/A

8. Date N/A

9. Did you appeal the action taken on your first federal petition, application, or motion to a federal court of appeals?

Yes No

If yes, attach the decision(s) that resolved your appeal and answer the following questions:

a. Name of court N/A

b. Docket or case number N/A

c. Date of filing N/A

d. Type of petition, application, or motion filed N/A

e. Grounds raised N/A

PRIOR FEDERAL CHALLENGES - continued

f. Result N/A

g. Date N/A

B. Did you file a petition for certiorari in the United States Supreme Court?

Yes No

If yes, attach the decision(s) that resolved your petition for certiorari and answer the following questions:

1. Date of filing petition for certiorari N/A

2. Grounds raised N/A

3. Result N/A

4. Date N/A

VI. REPRESENTATION

A. Give the name and address of each attorney who represented you in the following:

1. At preliminary hearing Christopher M. Eippert, Holden & Hahn SC 903 N 6th St Sheboygan WI 53081

2. At arraignment and plea hearing Same

3. At trial Same

4. At sentencing Same

5. On direct appeal Robert R. Henak, Henak Law Office, S.C., 316 N. Milwaukee St., #535, Milwaukee, WI 53202

REPRESENTATION - continued

VII. REQUEST FOR RELIEF

State exactly what you want the court to do for you.

Ardell respectfully asks that the Court grant the requested writ of habeas corpus, vacate his state conviction and sentence, and grant a new trial, thereby freeing Ardell from his unconstitutional restraint.

VIII. DECLARATION UNDER PENALTY OF PERJURY

I, the undersigned, hereby declare under penalty of perjury that the foregoing information is true and correct.

Signed this 30th day of July, 2019.

Signature of Petitioner

s/ Robert R. Henak
(Signature of lawyer, if any)

If you are signing the petition and are not the petitioner, state your relationship to the petitioner and explain why the petitioner is not signing this petition.

Attorney Robert R. Henak is counsel for the Petitioner and signing on his behalf.

Robert R. Henak, Henak Law Office, S.C., 316 N. Milwaukee St., #535, Milwaukee, WI 53202

414-283-9300 henaklaw@sbcglobal.net

IX. CERTIFICATE OF INMATE MAILING - Optional

If you deposit your petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 in your prison/institutional/jail mailing system and attach first-class postage pre-paid, and complete and sign this statement, you will establish the filing date as the date of deposit in that mailing system.

I, the undersigned, hereby declare under penalty of perjury that I placed this petition for a writ of habeas corpus under 28 U.S.C. § 2254 in the prison/institutional/jail mailing system with prepaid, first-class postage on N/A.
(month, day, year)

Signed this _____ day of _____, 20____.

Signature of Petitioner